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SENATE

REPORT
No. 97-456

PROVIDING FOR REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASE NUMBERED W-61985

MAY 28, 1982.—Ordered to be printed
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Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2481]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2481) to provide for the reinstatement and validation of United States oil and gas lease numbered W-61985, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. On page 2, lines 2 and 3, strike the words "thereafter as said lessee shall pay the annual rental or".

2. On page 2, lines 3, strike the words "oil and gas" and insert in lieu thereof the words "oil or gas".

PURPOSE

The purpose of S. 2481 is to provide for the reinstatement and validation of United States oil and gas lease numbered W-61985.

BACKGROUND AND NEED

The bill would reinstate a non-competitive oil and gas lease of the Tesoro Petroleum Corporation which was automatically terminated under section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188). This section provides that an oil and gas lease shall be automatically terminated in the event the lessee fails to pay the annual rental amount on or before the anniversary date of the lease with the possibility of reinstatement under certain circumstances if full payment is made within 20 days after the anniversary date.

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The Congress in 1954 enacted Public Law 83–555, which amended the Mineral Lands Act of 1920 to provide for the automatic termination of a Federal oil and gas lease in those instances where the lessee failed to pay the lease rental amount on or before the anniversary date of the release. The law provided no discretion to the Secretary of the Interior to reinstate a lease. Implementation of the law resulted in the termination of a substantial number of oil and gas leases for late or incorrect rental payments, which led to the introduction of numerous private and public relief bills seeking reinstatement.

In 1970, Congress enacted Public Law 91–245 to reduce the number of public and private relief bills being introduced in the Congress by amending the Mineral Lands Leasing Act to provide the Secretary with limited authority to reinstate oil and gas leases automatically terminated by section 31 of the Act (30 U.S.C. 188). The Secretary under Public Law 91–245 was given discretion to reinstate a lease terminated for failure to pay rent when the full rental amount is paid within 20 days after the anniversary if the failure to pay on or before the anniversary date was either justifiable or not due to lack of diligence by the lessee. (30 U.S.C. 188). In enacting Public Law 91–245, the Congress recognized that the limited discretion given to the Secretary would not provide relief in all deserving cases, and contemplated that private legislation would continue to be necessary in such instances. (See H. Rept. 91–1005, April 14, 1970.)

Federal oil and gas lease W–61985, covering 440 acres in Campbell County, Wyoming, was issued on February 1, 1978 for a primary term of ten years with an annual rent of $1 per acre, or $440 total.

On August 11, 1981, the Wyoming State Office of the Bureau of Land Management notified Tesoro that the lease had been designated as falling within a KGS, and that the rent would be $2 per acre, or $880 total. BLUM's notice apparently was misfiled by Tesoro.

On December 17, 1981, Tesoro forwarded to the BLM a check for $440, as payment for the annual rental due on February 1, 1982. On January 11, 1982, Tesoro received a courtesy billing regarding the $880 rent. This invoice was also misfiled. A Tesoro novice lease analyst received the notice and apparently noted that the annual rental payment for 1982 had already been made, though the payment was not for the rental due.

On March 4, 1982, the Wyoming State Office of the Bureau of Land Management notified the lessee that the lease had automatically terminated by operation of law (30 U.S.C. 226(d)) on January 31, 1982 for failure to pay rent. On March 8, 1982, the lessee tendered payment of the additional $440, and filed a notice of appeal requesting reinstatement of the lease. The lessee's appeal was submitted to the Interior Board of Land Appeals, which has not yet rendered a decision.

In June 1981, Tesoro forwarded to the Bureau of Land Management Wyoming State Office, for approval, an assignment of rights from Tesoro to Transcontinental Oil Corporation. The Wyoming State Office had not acted on the assignment by March 1982 when it notified Tesoro that the lease had terminated. No explanation has been given for the delay in processing of the application and there is no way of knowing what bearing this delay may have had on Tesoro's failure to pay the entire amount of rent due.

Although there is no known drilling on the lease, the lessee has asserted that it has invested $60,000 in the lease.

The Committee is of the opinion that the reinstatement of this oil and gas lease is justified for three reasons. First, the failure to pay the full annual rental was inadvertent, as the first rental notice was misfiled and the second notice was mistakenly not acted upon. Second, unless the lease is reinstated the lessee may be unable to realize the full benefit of its $60,000 investment. Third, BLM, is not acting timely on Tesoro's application for assignment of lease rights from Tesoro to Transcontinental Oil Corporation may have contributed to Tesoro's failure to pay the full rental due on the lease. In light of these circumstances, the Committee believes it would be inequitable not to allow the reinstatement of this oil and gas lease.

LEGISLATIVE HISTORY

S. 2481 was introduced on May 4, 1982, by Mr. Tower. A hearing was held by the Subcommittee on Energy and Mineral Resources on May 7, 1982. The bill was considered in an open business session on May 12, 1982.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 12 and 13, 1982, by a unanimous vote of a quorum present recommended that the Senate pass S. 2481 if amended as described herein.

The rollcall vote on reporting the measure was 18 yeas and 0 nays as follows:

YEAS	NAYS
McClure	
Hatfield	
Weicker [1]	
Domenici [1]	
Wallop	
Warner	
Humphrey	
Murkowski [1]	
Nickles	
East [1]	
Heinz [1]	
Jackson [1]	
Johnston	
Bumpers [1]	
Ford	
Melcher	
Matsunaga	
Bradley	

[1] Indicates voted by proxy.

COMMITTEE AMENDMENTS

The first amendment strikes redundant language which duplicates a lease provision.

The second amendment is a technical amendment.

COST AND BUDGETARY CONSIDERATIONS

This measure is in the nature of private relief, however, the Committee feels that no significant cost or budgetary impact will result from its enactment.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2481. The bill is not a regulatory measure in the sense of imposing Government standards or significant economic responsibilities on private individuals or business. No personal information will be collected in administering the provisions of the bill. Therefore, it would not impact of personal privacy. Little, if any, additional paperwork would result from the enactment of S. 2481.

EXECUTIVE COMMUNICATIONS

The Subcommittee on Energy and Mineral Resources received testimony on May 7, 1982, from the Department of the Interior not objecting to the enactment of S. 2481. The testimony follows:

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR

I am pleased to appear before the subcommittee this morning to discuss S. 2481.

S. 2481 would reinstate United States oil and gas lease W–61985 as of February 1, 1982, and extend the term of the lease for one year from date on which the lessee received notice of the expiration of the lease and so long thereafter as the lessee pays the annual rental or as oil and gas is produced in paying quantities. Within 30 days of the date of enactment of S. 2481, the Secretary would be required to notify the last recordholder of the lease of the amount of the unpaid rental accrued to the United States under the lease. The recordholder would be required to tender payment within 30 days of receipt of the notice.

We would not object to enactment of the bill if the Congress finds that the facts of the case warrant the special relief that the bill would grant.

Lease W–61985 comprises 440 acres of land in Campbell County, Wyoming. After a simultaneous oil and gas lease drawing, the lease was issued to Jeanne H. Ketchpaw and Robert A. Riley, for a ten year period effective February 1, 1978. At the time the lease was issued, the involved area had not been designated a Known Geologic Structure (KGS). As a result, the original rent was only $1 dollar per acre, or $440 total.

In January 1978, Tesoro Petroleum Corporation purchased the rights to the lease. On August 11, 1981, the Wyoming State Office of the Bureau of Land Management notified Te-

soro that the lease had been designated as falling within a KGS, and that the rent would be $2 per acre, or $880 total. Evidently, that notice was misfiled by Tesoro. On December 17, 1981, Tesoro forwarded to the Bureau of Land Management a check for $440, as payment for the anual rental due on February 1, 1982. On January 11, 1982, Tesoro received a courtesy billing regarding the $880 rent. From information prepared by Tesoro it appears that the courtesy billing was also misfiled.

On March 4, 1982, the Wyoming State Office of the Bureau of Land Management notified Tesoro that the lease had automatically terminated by operation of law on January 31, 1982, for failure to pay rent. On March 8, 1982. Tesoro tendered payment of the additional $440, and filed a notice of appeal requesting reinstatement of the lease. The Bureau of Land Management Wyoming State Office did not consider the request to reinstate because the rent had not been received within 20 days of the due date and the Bureau lacked authority to reinstate. However, it submitted the appeal decision to the Interior Board of Land Appeals, which has not yet rendered a decision.

Tesoro has asserted that it has invested $60,000 in the lease. As far as we know there has been no drilling on the lease.

We note that in June 1981, Tesoro forwarded to the Bureau of Land Management Wyoming State Office, for approval, an assignment of rights from Tesoro to Transcontinental Oil Corporation. The Wyoming State Office had not acted on the assignment by March 1982 when it notified Tesoro that the lease had terminated. We do not know why there was a delay in the processing of the application. It may have been that the assignment was forwarded to the Wyoming State Office during a period when the Bureau of Land Management was investigating filings and outstanding leases under the simultaneous oil and gas leasing system. The investigation may have contributed to the Bureau's delay in processing the assignment. We do not know what, if any, bearing this may have had on Tesoro's failure to pay the entire amount of rent due. We call it to your attention as a point of interest.

We suggest two technical amendments to the bill. S. 2481 would extend the lease for one year from the date the lessee received notice of the lease expiration, and "so long thereafter as said lessee shall pay the annual rental or as oil and gas is produced in paying quantities." We recommend that the phrase "thereafter as said lessee shall pay the annual rental or" be deleted because it duplicates a lease provision. In addition, the phrase "oil and gas" should be changed to "oil or gas."

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2481, as reported.

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